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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,784	06/27/2001	Frank Bahren	Westphal.6311	9616
50811	7590	03/31/2009	EXAMINER	
O'Shea Getz P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115			CHANKONG, DOHM	
			ART UNIT	PAPER NUMBER
			2452	
			MAIL DATE	DELIVERY MODE
			03/31/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* FRANK BAHREN, JOACHIM WIETZKE, HARALD SCHOPP,  
JOACHIM BISCHOFF AND DIRK LAPPE

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Application No. 09/892,784  
Technology Center 2400

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Mailed: March 31, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed July 01, 2008 is deficient because the "Evidence Relied Upon" section fails to include the reference: Flanders et al, U.S Patent No. 6,172,980 cited on pages 7 and 13 in the Examiner's Answer's grounds of rejection of claims 17 and 19 under 35 USC § 103(a) and claim 27 under 35 USC § 103(a).

Appropriate correction is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/sss

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